

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ERVIN W. THOMAS,

Petitioner,

v.

Case No. 11-C-0752

DAVID A. CLARKE, JR.,

Respondent.

DECISION AND ORDER REQUIRING PETITIONER TO FILE ON THE FORM
REQUIRED BY CIVIL L.R. 9(a) AND DENYING AS MOOT
PETITION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

On August 9, 2011, Ervin W. Thomas filed a motion pursuant to 28 U.S.C. § 2254(d) on the ground that the State of Wisconsin violated the Speedy Trial Act. In addition, he requests a “judicial investigation relating to prosecutorial misconduct, falsifying court IAD, documents and non-disclosure of exculpatory evidence a blatant violation of SCR 20:3.8(d), Rule 8.4 the state also violates the IAD statutory procedure under Art. III (3)(a), (5)(C) and (IX)(II) Wis. Stats. 976.05.” Thomas did not file his motion on the form available from the court, as required by Civil L.R. 9(a)(E.D. Wis.). As a result, it is not clear whether Thomas is challenging a final judgment of conviction, whether the issues raised in the motion were presented to the state courts, or whether Thomas otherwise exhausted his state court remedies. This court notes that the documents attached to the motion refer to Case No. 09CF003972, which appears to have been pending at the time Thomas filed his § 2254(d) motion. Moreover, the motion identifies Sheriff David Clark as a respondent, whereas the request to proceed without prepayment of fees and/or costs identifies Clark

and Assistant District Attorney Miriam Falk as respondents. With due regard for these matters,

IT IS ORDERED that Ervin Thomas shall complete and file the enclosed petition for writ of habeas corpus on or before January 25, 2011. Failure to file on the enclosed form may result in the dismissal of this action.

IT IS FURTHER ORDERED that Thomas' petition and affidavit to proceed without prepayment of fees and/or costs is denied as moot inasmuch as Thomas paid the \$5 filing fee and there are no other costs that need to be waived at this time.

Dated at Milwaukee, Wisconsin, this 9th day of January, 2012.

BY THE COURT

/s/ C. N. Clevert, Jr.
C. N. CLEVERT, JR.
CHIEF U. S. DISTRICT JUDGE